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INC.
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9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA
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12 ALTAIR INSTRUMENTS, INC., a
California corporation,

13 Plaintiff,
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15 vs.

16 KELLEY WEST ENTERPRISES, LLC,
a Florida limited liability company;
17 PRESSER DIRECT, LLC, a California
limited liability company;
18 AMAZON.COM, INC., a Delaware
corporation; HSN, Inc., a Florida
corporation, and DOES 1 through 10,
19 inclusive,

20 Defendants.
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Case No.

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

22 Plaintiff ALTAIR INSTRUMENTS, INC. (“Altair”) as its Complaint against
23 Defendants KELLEY WEST ENTERPRISES, LLC, (“Kelley West”), PRESSER
24 DIRECT, LLC (“Presser”), AMAZON.COM, INC., (“Amazon”), HSN, Inc.,
25 (“HSN”), and Does 1 through 10, inclusive (collectively, “Defendants”) alleges as
26 follows:
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JURISDICTION AND VENUE

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2 1. This is an action for patent infringement arising under the Patent Laws
3 of the United States, Title 35, United States Code. This Court has jurisdiction over
4 the subject matter of this action pursuant to 28 U.S.C. § 1338(a) (action arising
5 under an Act of Congress relating to patents) and 28 U.S.C. § 1331 (federal
6 question).

7 2. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1400(b)
8 and 28 U.S.C. § 1391(c). On information and belief, Defendants reside in this
9 judicial district because, among other things, Defendants sell and have sold and/or
10 offer to sell in this judicial district products that infringe the patent-in-suit.

THE PARTIES

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12 3. Plaintiff Altair is a California corporation with its principal place of
13 business at 1834 Palma Drive, Suite F, Ventura, California 93003.

14 4. On information and belief, defendant Kelley West is a Florida limited
15 liability company with its principal place of business located at 5255 North Federal
16 Highway, Suite 300, Boca Raton, FL 33428.

17 5. On information and belief, defendant Presser is a California limited
18 liability company with its principal place of business located at 9600 Cattaraugus
19 Avenue, Los Angeles, California 90034.

20 6. On information and belief, defendant Amazon is a Delaware
21 corporation with its principal place of business located at 410 Terry Ave., N, Seattle,
22 Washington 98109 .

23 7. On information and belief, defendant HSN is a Florida corporation with
24 its principal place of business located at 1 HSN Drive, St. Petersburg, Florida
25 32729.

26 8. The true names and capacities, whether individual, corporate, associate
27 or otherwise, of defendants DOES 1 through 10, inclusive, are unknown to Altair,
28 which therefore sues said defendants by such fictitious names. Altair will seek leave

1 of this Court to amend this Complaint to include their proper names and capacities
 2 when they have been ascertained. Altair is informed and believes, and based
 3 thereon alleges, that each of the fictitiously named defendants participated in and are
 4 in some manner responsible for the acts described in this Complaint and the damage
 5 resulting therefrom.

6 9. Altair alleges on information and belief that each of the defendants
 7 named herein as Does 1 through 10, inclusive, performed, participated in, or abetted
 8 in some manner, the acts alleged herein, proximately caused the damages alleged
 9 hereinbelow, and are liable to Altair for the damages and relief sought herein.

10 10. Altair alleges on information and belief that, in performing the acts and
 11 omissions alleged herein, and at all times relevant hereto, each of the Defendants
 12 was the agent and employee of each of the other defendants and was at all times
 13 acting within the course and scope of such agency and employment with the
 14 knowledge and approval of each of the other Defendants.

15 **GENERAL ALLEGATIONS**

16 11. On June 5, 2001, United States Patent No. 6,241,739, entitled
 17 "Microdermabrasion Device And Method Of Treating The Skin Surface" ("the '739
 18 patent"), was duly and legally issued by the United States Patent and Trademark
 19 Office (the "USPTO").

20 12. By assignment, Altair is the owner of all rights, title and interest in and
 21 to the '739 patent, including all rights to recover for any and all past infringement
 22 thereof. A true and correct copy of the '739 patent, with Reexamination
 23 Certificates, is attached hereto as **Exhibit "A."** Altair has given notice to the public
 24 of its patent by marking its own products with the '739 patent in conformity with 35
 25 U.S.C. § 287(a).

26 **CLAIM FOR RELIEF**

27 **(Infringement of the '739 Patent)**

28 13. Altair realleges each and every allegation set forth in paragraphs 1

1 through 12 above, and incorporates them herein.

2 14. Defendants make, use, sell, offer to sell, and/or import into the United
3 States a microdermabrasion device known as the “Microderm360°” which contains
4 each and every element of at least one claim of the ‘739 patent, including in this
5 Judicial District. Users of the Microderm360° also infringe the ‘739 patent.
6 Defendants have infringed and are infringing the ‘739 patent and will continue to do
7 so, unless enjoined by this Court. Defendants directly infringe the ‘739 patent, and
8 are also liable for contributory and inducing infringement.

9 15. On October 16, 2014, Altair sent a copy of the ‘739 patent to defendant
10 Kelley West. Despite Kelley West’s knowledge of the ‘739 patent, Kelley West
11 continued to infringe such patent. Defendant Amazon has been aware of the ‘739
12 patent since at least October 9, 2013, when it received a courtesy copy of the
13 complaint in the action entitled, *Altair Instruments, Inc., v Paul S. Taggart dba*
14 *Personal Microderm, et al.*, USDC Case No. CV13-07446 JAK (AGRx). On
15 information and belief, all Defendants are aware of the ‘739 patent and are aware
16 that the sale, offer to sell and use of the Microderm360° infringes the ‘739 patent.
17 Defendants’ infringement of the ‘739 patent has been and will continue to be willful,
18 wanton and deliberate with full knowledge and awareness of Altair’s patent rights,
19 unless enjoined by this Court.

20 16. Altair has been damaged in an amount to be determined at trial, but
21 which is no less than a reasonable royalty, and irreparably injured by Defendants’
22 infringing activities. Altair will continue to be so damaged and irreparably injured
23 unless such infringing activities are enjoined by this Court.

24 PRAYER

25 WHEREFORE, Altair prays for the following relief:

26 a. Preliminary and permanent injunctions pursuant to
27 35 U.S.C. § 283 enjoining and restraining Defendants, their officers,
28 directors, agents, employees, successors and assigns, and all those

1 acting in privity or concert with Defendants or any of them, from
2 further infringement of the '739 patent;

3 b. A judgment by the Court that Defendants have infringed
4 and are infringing the '739 patent;

5 c. An award of damages for infringement of the
6 '739 patent, together with prejudgment interest and costs, said
7 damages to be trebled by reason of the intentional and willful nature
8 of Defendants' infringement, as provided by 35 U.S.C. § 284;

9 d. An award of Altair's reasonable attorneys' fees pursuant
10 to 35 U.S.C. § 285 in that this is an exceptional case;

11 e. Altair's costs of suit herein; and

12 f. For such other and further relief as this Court deems just
13 and proper.

14 Dated: October 15, 2015

RUTAN & TUCKER, LLP
RONALD P. OINES
BENJAMIN DEMING
KATHRYN DOMIN

17 By: /s/ Ronald P. Oines
18 Ronald P. Oines
19 Attorneys for Plaintiff ALTAIR
20 INSTRUMENTS, INC.
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DEMAND FOR JURY TRIAL

Altair hereby demands a trial by jury.

Dated: October 15, 2015

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RONALD P. OINES
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KATHRYN DOMING

By: /s/ Ronald P. Oines
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